

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Civil Action No. 1:17-cv-02989-AT

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DONNA CURLING, et al.,

Plaintiffs,

vs.

BRAD RAFFENSPERGER, et al.,

Defendants.

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VIDEOTAPED DEPOSITION OF

JANICE W. JOHNSTON, M.D.

DATE: August 23, 2022

TIME: 9:39 a.m. to 11:10 a.m.

LOCATION: Krevolin & Horst, LLC  
1201 West Peachtree Street, Northwest  
Suite 3250  
Atlanta, Georgia 30309

REPORTED BY: Felicia A. Newland, CSR

Veritext Legal Solutions

1250 Eye Street, N.W., Suite 350

Washington, D.C. 20005

A P P E A R A N C E S

On behalf of the Curling Plaintiffs: (Via Zoom)

REILEY PORTER, ESQUIRE

MARY KAISER, ESQUIRE

SONJA SWANBECK, ESQUIRE

Morrison & Foerster LLP

2100 L Street, Northwest

Suite 900

Washington, D.C. 20037

mkaiser@mofo.com

rporter@mofo.com

sswanbeck@mofo.com

-- and --

ADAM SPARKS, ESQUIRE

Krevolin & Horst, LLC

1201 West Peachtree Street, Northwest

Suite 3250

Atlanta, Georgia 30309

sparks@khlawfirm.com

A P P E A R A N C E S (Cont'd)

On behalf of the Coalition for Good Governance  
Plaintiffs: (Via Zoom)

BRUCE P. BROWN, ESQUIRE

Bruce P. Brown Law

1123 Zonolite Road, Northeast, Suite 6

Atlanta, Georgia 30306

bbrown@brucepbrownlaw.com

-- and --

MARILYN MARKS, ESQUIRE (Via Zoom)

Attorney At Law

7035 Marching Duck Drive, E504

Charlotte, North Carolina 28210

Marilyn@uscgg.org

On behalf of the State Defendants:

ALEXANDER DENTON, ESQUIRE

DANIELLE HERNANDEZ, ESQUIRE (Via Zoom)

JAVIER PICO PRATS, ESQUIRE (Via Zoom)

ANNA EDMONDSON, ESQUIRE (Via Zoom)

Robbins Firm

500 14th Street, Northwest

Atlanta, Georgia 30318

A P P E A R A N C E S (Cont'd)

alexander.denton@robbinsfirm.com

javier.picoprats@robbinsfirm.com

danielle.hernandez@robbinsfirm.com

anna.edmonstron@robbinsfirm.com

Also Present: (Via Zoom)

Donna Curling

Jenna Conaway

Bryan Tyson

Duncan Bell

Oluwasegun Joseph

Wail Jihadi

Donna Price

Videographer: Leo Mileman

## C O N T E N T S

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Counsel for Curling Plaintiffs 9

Counsel for Coalition Plaintiffs 71

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9 \*(Exhibits attached to transcript.)

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P R O C E E D I N G S

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VIDEOGRAPHER: Good morning. We are on the video record at 9:39 a.m. on August -- sorry, Tuesday, 23rd of August 2022. This is Media Unit 1 of the video-recorded deposition of Dr. Janice Johnston taken by counsel for Plaintiff in the matter of Donna Curling, et al. versus Brad Raffensperger, et al. filed in the U.S. District Court for the Northern District of Georgia, Atlanta Division. The location of this deposition is Krevolin & Horst in Atlanta, Georgia.

My name is Leo Mileman. I'm from the firm Veritext. I'm the videographer. The court reporter is Felicia Newland from the firm Veritext.

Counsel all present please introduce yourselves, after which the court reporter will swear in the witness.

THE WITNESS: Leo, this is the 23rd.

VIDEOGRAPHER: Oh, thank you.

MS. PORTER: This is Reiley Porter

1 from Morrison & Foerster for the Curling  
2 Plaintiffs. And I'm here with Mary Kaiser, also  
3 from Morrison & Foerster for the Curling  
4 Plaintiffs.

5 MR. SPARKS: Also here for the  
6 Curling Plaintiffs is Adam Sparks of Krevolin &  
7 Horst. I should note for the record that Halsey  
8 Knapp, also of Krevolin & Horst, may be here for  
9 part of the deposition.

10 Bruce.

11 MR. BROWN: This Bruce Brown. I am  
12 here for the Coalition Plaintiffs.

13 MR. DENTON: Alexander Denton, here  
14 in the room, for the State Defendants.

15 MR. TYSON: And Bryan Tyson, via  
16 Zoom, also for the State Defendants.

17 MS. EDMONDSON: Anna Edmondson for  
18 the State Defendants.

19 MS. HERNANDEZ: Danielle Hernandez  
20 for the State Defendants.

21 MR. PICO PRATS: Javier Pico Prats  
22 for the State Defendants.



1 MR. JIHADI: Wail Jihadi for the  
2 Curling Plaintiffs.

3 MR. JOSEPH: Oluwasegun Joseph for  
4 the Curling Plaintiffs.

5 VIDEOGRAPHER: I believe that  
6 concludes the counsel of record at today's  
7 deposition.

8 \* \* \* \* \*

9 Whereupon,

10 JANICE W. JOHNSTON, M.D.  
11 was called as a witness and, having been first duly  
12 sworn, was examined and testified as follows:

13 EXAMINATION BY COUNSEL FOR CURLING PLAINTIFFS  
14 BY MS. PORTER:

15 Q Good morning, Dr. Johnston. I'm  
16 Reiley Porter. I am counsel on behalf of the  
17 Curling Plaintiffs.

18 Would you please state your name for  
19 the record?

20 A Janice W. Johnston, M.D.

21 Q And do you understand that you're  
22 under oath?

1                   A       Yes, I do.

2                   Q       Is there any reason why you would be  
3       unable to give full and complete testimony today?

4                   A       No.

5                   Q       Thank you.

6                             You are currently a member of the  
7       State Election Board, correct?

8                   A       Correct.

9                   Q       Were you aware that the Plaintiffs  
10       asked to depose you in April of this year?

11                  A       I'm not aware of that.

12                  Q       Thank you.

13                             MS. PORTER: On Tab 41, Adam, on the  
14       physical exhibits. We're also introducing our  
15       first exhibit.

16                             MR. SPARKS: I am handing to witness  
17       and counsel a copy of the document we have  
18       predesignated as Exhibit 41.

19                             (Johnston Deposition Exhibit Number 1  
20       marked for identification.)

21                             MS. PORTER: Thank you.

22

1 BY MS. PORTER:

2 Q Have you seen this filing describing  
3 your refusal to appear for a deposition?

4 MR. DENTON: Object to form.

5 BY MS. PORTER:

6 Q At the -- it's paragraph 2, the first  
7 sentence describes the refusal of Defendants Ed  
8 Lindsey and Janice Johnston to produce any  
9 documents, answer any discovery requests or appear  
10 for deposition on the first page.

11 MR. DENTON: Object to form.

12 BY MS. PORTER:

13 Q Do you see the sentence I'm trying to  
14 point you to?

15 A I do see the sentence.

16 Q Okay. Why did you decline to be  
17 deposed?

18 MR. DENTON: Object to form.

19 BY MS. PORTER:

20 Q Why did you decline to be deposed?

21 MR. DENTON: Same objection.

22 MR. SPARKS: Ma'am, unless your

1           counsel directs you not to answer with some sort of  
2           explanation, you're expected to answer the  
3           question.

4                       MR. DENTON: To the extent you're  
5           able to answer the question, you should answer it.  
6           That's fair.

7                       THE WITNESS: You'll need to explain  
8           further.

9           BY MS. PORTER:

10                   Q       Okay. I'm asking you a simple  
11           question. Did you decline to be deposed?

12                   MR. DENTON: Object to form.

13                   THE WITNESS: I do not see my  
14           signature anywhere on this.

15           BY MS. PORTER:

16                   Q       Did you direct your counsel to ask  
17           the Court to prohibit your deposition?

18                   MR. DENTON: Object to form.

19                   And, Dr. Johnston, I'm going to  
20           direct you not to answer that question to the  
21           extent it would require you to disclose  
22           privileged or confidential communications between

1           you and your counsel. If you can answer the  
2           question without disclosing privileged or  
3           confidential communications, you may do so.

4                       THE WITNESS: I don't understand your  
5           question.

6           BY MS. PORTER:

7                       Q       Were you aware that the Plaintiffs  
8           asked to depose you in April of this year?

9                       MR. DENTON: Object to form.

10          BY MS. PORTER:

11                      Q       Have you received a request -- prior  
12          to this deposition, have you received a request to  
13          appear in this case?

14                      MR. DENTON: Object to form.

15          BY MS. PORTER:

16                      Q       This is a simple question. Can you  
17          please provide an answer?

18                      MR. DENTON: Ms. Porter, it might be  
19          helpful if you specify which requests and which  
20          depositions you're asking her about. I think your  
21          question is a little bit unclear.

22                      MS. PORTER: I am asking if she has

1           ever been asked to be deposed in this case prior to  
2           this deposition.

3                       MR. DENTON:   Which deposition?

4                       MS. PORTER:   The deposition that we  
5           are currently in.

6                       THE WITNESS:   This is the first  
7           deposition that I have been asked -- that I know of  
8           that I have been asked to perform.

9           BY MS. PORTER:

10                      Q           Thank you.

11                      MS. PORTER:   Adam, will you please  
12           produce Tab 1?

13                      (Johnston Deposition Exhibit Number 2  
14           marked for identification.)

15                      MR. SPARKS:   I'm handing the witness  
16           and her counsel what's been predesignated as Tab 1.

17           BY MS. PORTER:

18                      Q           Have you ever seen this report  
19           before?

20                      A           I have not.

21                      Q           Are you aware that Dr. Halderman, who  
22           wrote this report, uncovered numerous serious

1           vulnerabilities in Georgia's current election  
2           system, and it's detailed in this one-hundred-page  
3           report?

4                       MR. DENTON: Object to form.

5                       THE WITNESS: I have not seen this  
6           form.

7           BY MS. PORTER:

8                       Q       Do you know who Dr. Halderman is?

9                       A       I know who Dr. Halderman is.

10                      Q       Have you heard that Dr. Halderman has  
11           discovered numerous serious vulnerabilities in  
12           Georgia's election system --

13                      MR. DENTON: Object to --

14           BY MS. PORTER:

15                      Q       -- from any source?

16                      MR. DENTON: Object to form.

17                      THE WITNESS: Would you restate your  
18           question?

19           BY MS. PORTER:

20                      Q       Yes.

21                      Have you heard that Dr. Halderman has  
22           discovered serious vulnerabilities in Georgia's

1 election system from any source?

2 MR. DENTON: Same objection.

3 THE WITNESS: I'm not sure of the  
4 meaning of your question.

5 BY MS. PORTER:

6 Q Will you tell me what you know about  
7 Dr. Halderman?

8 A My understanding is Dr. Halderman is  
9 a computer -- alleged computer expert.

10 Q And do you know anything about his  
11 connection to the Georgia election system?

12 A No.

13 Q Thank you.

14 MS. PORTER: Adam, Tab 4, please.

15 MR. SPARKS: I'm handing the witness  
16 and her counsel what has been predesignated as  
17 Tab 4.

18 (Johnston Deposition Exhibit Number 3  
19 marked for identification.)

20 BY MS. PORTER:

21 Q Are you aware that the Secretary of  
22 State retained as its election security expert



1 Dr. Juan Gilbert?

2 A Yes.

3 Q And I'm going to direct you to the  
4 second page of the document that you have at Line  
5 13. The page is marked 144.

6 MR. DENTON: Ms. Porter, before you  
7 ask your question, if I may, just to be clear on  
8 the record, you referred to this document as Tab 4.  
9 Is it also Exhibit 4?

10 MS. PORTER: It's Exhibit 3.

11 THE WITNESS: What page?

12 BY MS. PORTER:

13 Q It's the second page of the document.  
14 It's labeled page 144. The page numbers are on the  
15 top right-hand side. And we're looking for Line  
16 13.

17 Were you aware that Dr. Gilbert  
18 testified that Dr. Halderman was one of two experts  
19 he would turn to for a cybersecurity assessment of  
20 voting equipment, like Dr. Halderman did for the  
21 report produced in this case?

22 MR. DENTON: Object to form.

1 THE WITNESS: I -- I see this answer  
2 to a question from Juan Gilbert, Dr. Gilbert.

3 BY MS. PORTER:

4 Q Yes. Where he says that he would  
5 turn to Dr. Halderman?

6 A I see that.

7 Q Were you aware of that testimony?

8 A I'm not sure I have seen this  
9 testimony. Is this a video recording?

10 Q It is from Dr. Gilbert's deposition  
11 in this case. It's a transcript of that  
12 deposition.

13 Were you aware that Dr. Gilbert did  
14 not agree with any of Dr. Halderman's technical  
15 findings about the many vulnerabilities with the  
16 Dominion equipment?

17 Oh, let me restate.

18 Were you aware that Dr. Gilbert did  
19 not disagree with any of Dr. Halderman's technical  
20 findings about the many vulnerabilities with the  
21 Dominion equipment?

22 MR. DENTON: Object to form.

1 BY MS. PORTER:

2 Q I will direct you to the page labeled  
3 218, which should be the fifth page of your  
4 document.

5 MR. DENTON: Ms. Porter, while we're  
6 getting there, to confirm, this is not a complete  
7 transcript of this deposition. Is that correct?

8 MS. PORTER: That is correct. This  
9 is an excerpt.

10 BY MS. PORTER:

11 Q Do you see page 218, Line 8?

12 A On page 217?

13 Q Yeah, we can look at 217.

14 At Line 17 it says, "You don't  
15 dispute in your declaration that ICX QR codes are  
16 not protected against replay attacks? I do not."

17 On page 218, at Lines 8 and 11, you  
18 also see he's not disputing findings. And this  
19 continues on for 30 pages of this transcript.

20 Were you aware of that testimony?

21 MR. DENTON: Object to form.

22 THE WITNESS: Ms. Porter, I'm aware

1 of these computer experts as part of this Curling  
2 case. I -- I cannot tell you all of the details of  
3 this incomplete transcript and what I'm aware of.

4 BY MS. PORTER:

5 Q Were you aware that the Secretary of  
6 State's own witness did not disagree with any of  
7 Dr. Halderman's findings?

8 MR. DENTON: Object to form.

9 THE WITNESS: That is too broad --

10 BY MS. PORTER:

11 Q So --

12 A That is too broad of a question. You  
13 need to be more specific.

14 Q It's a yes-or-no question. Were you  
15 aware that Dr. Gilbert did not agree with any of  
16 Dr. Halderman's findings?

17 MR. DENTON: Same objection.

18 BY MS. PORTER:

19 Q Please answer the question.

20 A Your question is too broad. You need  
21 to be more specific.

22 Q Were you aware of this testimony?

1                   A       I am aware that both of these  
2       computer experts have been asked questions.

3                   Q       And were you aware that Dr. Gilbert  
4       did not disagree with Halderman's report?

5                   A       I cannot --

6                   MR. DENTON: Object to form.

7                   THE WITNESS: I cannot answer that.

8       BY MS. PORTER:

9                   Q       Are you refusing to answer the  
10       question?

11                  A       I don't have enough information to  
12       answer the question.

13                  Q       I'm asking what you know. Were you  
14       aware?

15                  A       I don't know --

16                  MR. DENTON: Object to form.

17                  THE WITNESS: -- enough to answer.

18       BY MS. PORTER:

19                  Q       I'm going to ask you one more time if  
20       you had ever seen the Halderman report, which was  
21       Exhibit 2, before today?

22                           Have you ever seen this report before

1           today?

2                           MR. DENTON:   Ms. Porter, I apologize  
3           again.   I have an objection to the form of that  
4           question.   I also want to be clear on the record, I  
5           had a document marked as Exhibit 1 that is  
6           entitled, "Security Analysis of Georgia's ImageCast  
7           X Ballot Marking Devices."   Is that supposed to be  
8           Exhibit 2?

9                           MS. PORTER:   Yes.

10                          MR. DENTON:   Okay.   And my objection  
11           to your question is -- I'm going to maintain my  
12           objection to your question, which you've already  
13           asked.

14           BY MS. PORTER:

15                          Q           The witness may answer.

16                          MR. DENTON:   Why don't you restate it  
17           since we've had some back and forth on the record.

18           BY MS. PORTER:

19                          Q           Yes.

20                          Have you ever seen Dr. Halderman's  
21           report before today?

22                          MR. DENTON:   Object to form.

1 BY MS. PORTER:

2 Q You don't need to look through the  
3 whole report. Have you ever seen it?

4 MR. DENTON: Ms. Porter, if she  
5 thinks she needs time to look through the document  
6 that you put in front of her, she's certainly  
7 entitled to do that.

8 MS. PORTER: She's obviously  
9 stalling.

10 MR. DENTON: That is not obvious,  
11 Ms. Porter. I disagree. You asked her the  
12 question already once this morning. It's your  
13 choice to go back to that well and ask it again.

14 MS. PORTER: It's not a "well," it's  
15 a yes-or-no question.

16 BY MS. PORTER:

17 Q Have you seen this document before  
18 today?

19 MR. DENTON: It's a question that  
20 she's already answered on the record.

21 BY MS. PORTER:

22 Q The witness may answer the question.

1                   A       I have not seen this report.

2                   Q       Has anyone ever told you about this  
3       report before today?

4                   A       If this is the report that has been  
5       disputed in this case, I have heard of this report.

6                   Q       What have you heard of this report?

7                   MR. DENTON: Dr. Johnston, I'm going  
8       to direct you not to answer that question to the  
9       extent it would require you to divulge privileged  
10      communications between you and your attorneys. If  
11      you can answer the question without sharing  
12      privileged communications, you may do so.

13                  BY MS. PORTER:

14                  Q       The witness may answer.

15                  A       Restate your question, please.

16                  Q       Has anyone ever told you about the  
17      Halderman report before today?

18                  MR. DENTON: Same instruction.

19                  THE WITNESS: What do you mean told  
20      me?

21                  BY MS. PORTER:

22                  Q       Has someone told you about this



1 report? Have they talked about this report with  
2 you?

3 A Talked about this particular report  
4 with me --

5 Q Yes.

6 A -- is the question?

7 No.

8 Q Okay. I'm going to go to Tab  
9 Number 3, which will be Exhibit Number 5 -- 4. It  
10 will be Exhibit Number 4.

11 (Johnston Deposition Exhibit Number 4  
12 marked for identification.)

13 THE WITNESS: May I clarify  
14 something?

15 MR. DENTON: Sure.

16 THE WITNESS: There's a lot of talk  
17 about this report, and your question, "Has anyone  
18 told me about this report," is so broad because  
19 there has been talk on it publicly.

20 BY MS. PORTER:

21 Q Please tell us what you know about  
22 the report.

1 MR. DENTON: Ms. Porter, please

2 let --

3 THE WITNESS: I don't know the

4 detail --

5 MR. DENTON: -- her finish her

6 statement before --

7 THE WITNESS: Let me finish.

8 I don't know the details in this

9 report, but I have heard talk about this report

10 for some time.

11 BY MS. PORTER:

12 Q Thank you.

13 Okay. Going on to Exhibit 4,

14 Tab Number 3.

15 MS. PORTER: Adam, do you have that

16 one?

17 MR. SPARKS: I am handing the witness

18 and counsel what has been predesignated as Tab 3,

19 what we're marking as Exhibit 4.

20 MR. DENTON: And to clarify while

21 we're distributing the documents, was what was

22 originally indicated to be Document 41, should that

1 have been Exhibit 1?

2 MR. SPARKS: Yes. Counsel, that was  
3 my error. I should have marked as predesignated as  
4 Tab 41. As you can understand with remote  
5 depositions, it's sometimes a bit difficult for  
6 counsel to communicate from two different places,  
7 and so we have predesignated numbers as tabs for  
8 the convenience of opposing counsel, but we are  
9 moving through in the ordinary sequential  
10 exhibit-numbering format, 1, 2, 3, and 4.

11 MR. DENTON: I'm with you now. Thank  
12 you.

13 MR. SPARKS: My apologies for the  
14 error.

15 MR. DENTON: None required.

16 MR. SPARKS: Ms. Porter, back to you.

17 BY MS. PORTER:

18 Q Have you seen this advisory before?  
19 Please answer the question.

20 MR. DENTON: Ms. Porter, she's  
21 reviewing the document.

22 THE WITNESS: Yes, I think I have.

1 BY MS. PORTER:

2 Q Thank you.

3 Would you turn to the second to the  
4 last page, the section labeled "Mitigations"?

5 On the second to the last bullet on  
6 that page, were you aware that CISA advised against  
7 using QR codes for tabulation on ballots as Georgia  
8 currently does?

9 MR. DENTON: Object to form.

10 BY MS. PORTER:

11 Q Were you aware of this recommendation  
12 by CISA?

13 A I see this next to the last bullet.

14 Q Thank you.

15 Did you know about that before today?

16 A Yes.

17 Q Did that give you any concerns about  
18 the election system in Georgia?

19 A Be specific, please.

20 Q Did the fact that CISA has  
21 recommended not to use QR codes for tabulation, as  
22 Georgia currently does, give you any concerns about

1 Georgia's current election system?

2 MR. DENTON: Object to form.

3 THE WITNESS: Ms. Porter, as a member  
4 of the State Election Board, I worry about  
5 everything having to do with Georgia elections.

6 BY MS. PORTER:

7 Q Of course.

8 Did this recommendation make you  
9 think that Georgia should not continue to use QR  
10 codes?

11 A I have not seen any substantive  
12 evidence that compels me to make a recommendation  
13 like that.

14 Q Do you know who CISA is or what CISA  
15 is?

16 A I do.

17 Q Do you trust their expert  
18 recommendation?

19 MR. DENTON: Object to form.

20 THE WITNESS: A recommendation is  
21 only a recommendation.

22

1 BY MS. PORTER:

2 Q Did you review the report?

3 A I have seen this report.

4 Q And it gave you no concern about  
5 Georgia continuing to use QR codes for tabulation  
6 in its voting system?

7 MR. DENTON: Object to form.

8 THE WITNESS: Ms. Porter, I am  
9 concerned about the vulnerability of any voting  
10 system in Georgia.

11 BY MS. PORTER:

12 Q Do you have a specific concern about  
13 the use of QR codes for tabulation in Georgia's  
14 voting system?

15 A I have concerns about every voting  
16 system and every aspect of it and how it applies to  
17 election integrity.

18 Q Georgia has one voting system. Do  
19 you have a specific concern about its voting system  
20 that uses QR codes for tabulation?

21 A I have a specific concern about any  
22 voting system that Georgia chooses.

1 Q You're not answering the question.

2 Do you have any concerns about

3 Georgia using QR codes for tabulation?

4 MR. DENTON: Object to form. She has  
5 answered that question.

6 BY MS. PORTER:

7 Q The witness may answer.

8 A I have answered before.

9 Q Are you refusing to answer the  
10 question?

11 A I have concerns about any voting  
12 system in Georgia.

13 Q I am asking you about Georgia's  
14 voting system, its current voting system, that uses  
15 QR codes for tabulation. Do you have concerns  
16 about that system?

17 A I have a concern --

18 MR. DENTON: Object to form.

19 Sorry.

20 THE WITNESS: That's okay.

21 BY MS. PORTER:

22 Q The witness may answer.

1                   A       I have a concern about any voting  
2       system that Georgia uses.

3                   Q       What is your concern?

4                   A       My concern is if election integrity  
5       can be upheld.

6                   Q       And in this case, CISA believes that  
7       it's important for QR codes -- sorry, let me  
8       restate.

9                             In this case, CISA has recommended QR  
10       codes not be used for tabulation in order to uphold  
11       election integrity. Does that give you any  
12       concerns?

13                   MR. DENTON: Object to form.

14                   THE WITNESS: CISA's report and  
15       mitigations are simply advice.

16       BY MS. PORTER:

17                   Q       What has Georgia done based on any  
18       recommendations that have come from CISA --

19                   MR. DENTON: Object to form.

20       BY MS. PORTER:

21                   Q       -- in this report?

22                   A       You need to clarify your question.



1                   Q       Can you walk me through any actions  
2       that Georgia has taken in response to the  
3       recommendations provided by CISA in this report?

4                   A       Shall we go through each one of  
5       these?

6                   Q       What do you know about any steps  
7       Georgia has taken to follow these recommendations?

8                   MR. DENTON:   Object to form.

9                   THE WITNESS:   Ms. Porter, these are  
10       simply recommendations.

11       BY MS. PORTER:

12                  Q       Has Georgia done anything to follow  
13       these recommendations?

14                  A       I think your question is too broad.

15                  Q       Are you aware of any action that  
16       Georgia has taken to follow the mitigations advised  
17       in this document?

18                  A       I think that is a better question for  
19       the -- the good people that work in the IT  
20       department with Georgia elections.

21                  Q       Is your testimony then that you are  
22       not aware of any steps that Georgia has taken to

1 follow these recommendations?

2 A I think that is a --

3 MR. DENTON: Object to form.

4 THE WITNESS: -- better question for  
5 the IT department.

6 BY MS. PORTER:

7 Q I'm asking what you know.

8 A I think that is a better question for  
9 the IT department of Georgia Elections.

10 Q This is a question for you. What do  
11 you know about any steps Georgia has taken?

12 MR. DENTON: Object to form.

13 You may answer if you know.

14 THE WITNESS: As a member of the  
15 State Election Board, I view everything within the  
16 framework of Georgia Election Code and how it  
17 applies to election integrity. I am -- I am not an  
18 IT expert or one that would address all of these  
19 advice, recommendations, from CISA.

20 BY MS. PORTER:

21 Q So are you not aware of any steps  
22 Georgia has taken to address these recommendations?

1           It's a yes-or-no question.

2                       MR. DENTON: Object to form.

3                       THE WITNESS: It is -- it's -- it's  
4 my opinion that Georgia is constantly attempting to  
5 make sure that the elections are secure and safe.

6 BY MS. PORTER:

7                       Q       This question is specifically about  
8 these mitigations. Are you aware of any steps  
9 Georgia has taken to follow them?

10                      A       I'm not a computer expert.

11                      Q       We're not asking you to be a computer  
12 expert. I'm asking if you're aware of any steps  
13 that Georgia has taken.

14                      A       I think you need to ask the -- the  
15 other -- the proper people this question.

16                      Q       Dr. Johnston, you are not answering  
17 my question.

18                      My question is whether you are aware  
19 of any steps Georgia has taken. This is about your  
20 knowledge.

21                      A       These are questions for the election  
22 division of the Secretary of State, not a member of

1 the State Election Board.

2 Q So you are not aware of any steps  
3 Georgia has taken to mitigate to these  
4 recommendations?

5 Please answer the question.

6 A I am unable to answer your question  
7 at this time.

8 MS. PORTER: I am going to state for  
9 the record that the witness has clearly been  
10 coached to stall and waste time, and we're going to  
11 reserve our right to seek more time from this  
12 witness.

13 MR. DENTON: Ms. Porter, your  
14 assessment of the situation couldn't be more  
15 incorrect. There's been no coaching of the witness  
16 in any regard, and specifically the witness has not  
17 been directed to stall or waste time.

18 I strongly disagree with your  
19 characterization of the proceedings this morning.  
20 It has been your decision to ask the questions  
21 that you've chosen to ask the witness, and it's  
22 been your decision to use the time as you have

1 chosen to use it.

2 MS. PORTER: I'm asking simple  
3 questions. She is stalling and she's not answering  
4 even the simple questions that I am asking.

5 MR. DENTON: There is no stalling and  
6 she's giving the best answers she can. If you're  
7 not satisfied with her answers, you may wish to  
8 move on.

9 MS. PORTER: I am just stating for  
10 the record that we reserve our rights to ask for  
11 more time from the witness.

12 MR. DENTON: And if you would like to  
13 take that up with the Court, I'm sure you'll do  
14 that.

15 BY MS. PORTER:

16 Q Dr. Johnston, are you aware of a  
17 Georgia State investigation regarding the  
18 copying -- let me restate.

19 Are you aware of a Georgia State  
20 investigation regarding the copying of election  
21 software and records in Coffee County, Georgia?

22 A Would you repeat that?

1 Q Yes.

2 Are you aware of a Georgia State  
3 investigation regarding the copying of election  
4 software and records in Coffee County, Georgia?

5 A I am aware that an investigation is  
6 taking place.

7 Q When did that investigation begin?

8 A I do not know.

9 Q What do you know about that  
10 investigation?

11 MR. DENTON: And, Dr. Johnston, in  
12 answering this question, I'm going to instruct you  
13 not to answer by providing information that is  
14 privileged communication between you and your  
15 attorneys. If you can answer the question without  
16 disclosing privileged communications, you may do  
17 so.

18 THE WITNESS: I have nothing to  
19 disclose.

20 BY MS. PORTER:

21 Q Who initiated that investigation?

22 MR. DENTON: Same instruction.

1 THE WITNESS: I don't know.

2 BY MS. PORTER:

3 Q Did the State Election Board initiate  
4 that investigation?

5 MR. DENTON: Object to form.

6 THE WITNESS: I don't know.

7 BY MS. PORTER:

8 Q Do you have any role in the  
9 investigation right now?

10 A No.

11 Q Is there anything that you can tell  
12 us about that investigation that you have not  
13 learned from your counsel?

14 A There's nothing I can tell you.

15 Q What do you know about what happened  
16 in Coffee County?

17 MR. DENTON: I'll give you the same  
18 instruction, Dr. Johnston.

19 THE WITNESS: I don't know anything  
20 about the investigation.

21 BY MS. PORTER:

22 Q I'm not asking you about the

1 investigation. I'm asking if you know anything  
2 about the incident that took place in Coffee County  
3 that led to the investigation.

4 MR. DENTON: And I'll object to form.

5 THE WITNESS: I have read newspaper  
6 articles, but other than that, I have nothing I can  
7 share with you today.

8 BY MS. PORTER:

9 Q Based on those news articles that you  
10 have read, what is your understanding of what  
11 happened in Coffee County?

12 A Actually, I'm not sure what happened  
13 in Coffee County.

14 Q Do you want to know?

15 A Are you going to tell me?

16 Q I'm asking if you -- I'm asking if  
17 you would like to know what happened in Coffee  
18 County.

19 A I'd like to know a lot of things.

20 Q As a member of the State Election  
21 Board, are you curious about what happened in  
22 Coffee County?



1                   A       Absolutely.

2                   Q       What steps have you taken to find out  
3 what happened in Coffee County?

4                   A       To my understanding, an investigation  
5 is taking place.

6                   Q       And do you have any role in that  
7 investigation?

8                   A       I am not an investigator.

9                   Q       Do you have any oversight over the  
10 investigation as a State Election Board member?

11                   MR. DENTON: Object to form.

12                   THE WITNESS: My understanding is  
13 that an investigation is taking place. I am not  
14 participating in the investigation specifically  
15 myself.

16 BY MS. PORTER:

17                   Q       Are you getting updates on the  
18 investigation?

19                   MR. DENTON: You can answer if you  
20 know.

21                   THE WITNESS: Yes.

22

1 BY MS. PORTER:

2 Q Can you walk me through any specific  
3 steps that have been taken in that investigation to  
4 date?

5 MR. DENTON: Dr. Johnston, I will  
6 give the instruction that you may answer this  
7 question to the extent you may do so without  
8 disclosing privileged communications between you  
9 and your attorneys.

10 THE WITNESS: There's no information  
11 I can share with you today.

12 BY MS. PORTER:

13 Q Did the State Election Board task the  
14 Secretary of State's office with investigating  
15 potential unauthorized access to Coffee County  
16 voting equipment?

17 A Repeat the question, please.

18 Q Did the State Election Board task the  
19 Secretary of State's office with investigating  
20 potential unauthorized access to Coffee County  
21 voting equipment?

22 A I don't understand your question.

1                   Q       I'm asking whether the State Election  
2       Board gave the task to the Secretary of State's  
3       office to investigate potential unauthorized access  
4       of Coffee County's voting equipment.

5                   A       I don't know.

6                   Q       Do you know why the Secretary of  
7       State claims that it was tasked with that  
8       investigation?

9                   MR. DENTON: Object to form.

10                  THE WITNESS: I -- I don't have an  
11       answer for your question.

12       BY MS. PORTER:

13                  Q       You -- it's a yes-or-no question. Do  
14       you know why the Secretary of State claims that it  
15       was tasked with the investigation?

16                  MR. DENTON: Object to form.

17                  THE WITNESS: I don't know.

18       BY MS. PORTER:

19                  Q       Okay. Are you aware that Paul  
20       Maggio, who led the SullivanStrickler forensic team  
21       involved in the Coffee County voting equipment  
22       incident, has produced photographs taken during the

1 incident?

2 A Who?

3 Q Paul Maggio led the forensic team  
4 involved in this breach of the Coffee County voting  
5 system. He has produced photographs taken during  
6 that incident. Were you aware of these  
7 photographs?

8 MR. DENTON: Object to form.

9 THE WITNESS: No, I'm not aware.

10 MS. PORTER: Adam, Tab 7. And this  
11 will be Exhibit 5.

12 (Johnston Deposition Exhibit Number 5  
13 marked for identification.)

14 BY MS. PORTER:

15 Q These are photos produced by Paul  
16 Maggio, who led this forensic team.

17 MR. SPARKS: I am now handing the  
18 witness and her counsel what has been predesignated  
19 as Tab 7 and now marked as Exhibit 5.

20 BY MS. PORTER:

21 Q Please look at the first photograph.  
22 Have you seen this photograph before today?

1 A No.

2 Q If you look at this photograph,  
3 you'll see SullivanStrickler forensic team members  
4 working at the Coffee County EMS server computer.

5 Were you aware that SullivanStrickler  
6 team members copied the Coffee County EMS server  
7 computer?

8 MR. DENTON: Object to form.

9 THE WITNESS: I don't know what  
10 anybody did with this Coffee County issue.

11 BY MS. PORTER:

12 Q Were you aware that they copied  
13 numerous compact flash drives used with the Coffee  
14 County voting equipment?

15 MR. DENTON: Object to form.

16 THE WITNESS: I do not know what was  
17 done.

18 BY MS. PORTER:

19 Q Is this the first you've heard about  
20 that today?

21 MR. DENTON: Object to form.

22 THE WITNESS: I do not know what I've

1 heard.

2 BY MS. PORTER:

3 Q I am asking if you have heard of  
4 forensic access to the Coffee County voting system  
5 before today.

6 A I do not have an answer for that.

7 Q It's a yes-or-no question. Have you  
8 heard of forensic access to the system?

9 MR. DENTON: Object to form.

10 BY THE WITNESS:

11 Q I'll restate.

12 Have you heard allegations of  
13 forensic access to the system?

14 MR. DENTON: Object to form.

15 BY MS. PORTER:

16 Q Please answer the question.

17 A I have read the articles in the news  
18 media.

19 Q And that's it?

20 A And that's it.

21 Q Please look at the third photograph.  
22 You'll see two men sitting at a table.

1 MR. DENTON: And it's double-sided.

2 BY MS. PORTER:

3 Q Have you seen this photo before?

4 A No.

5 Q Are you familiar with Eric Chaney?

6 A No.

7 Q Were you aware he was a member of the  
8 Coffee County Board of Elections until August 12th  
9 of this year when he resigned?

10 A Okay.

11 Q Were you aware that Eric Chaney  
12 helped organize and facilitate the copying of Coffee  
13 County's voting equipment in January of 2021?

14 MR. DENTON: Object to form.

15 THE WITNESS: Can you restate your  
16 question?

17 BY MS. PORTER:

18 Q Are you aware that Eric Chaney helped  
19 organize and facilitate the copying of Coffee  
20 County's voting equipment in January of 2021?

21 MR. DENTON: Object to form.

22 THE WITNESS: I do not know what Eric

1 Chaney did.

2 BY MS. PORTER:

3 Q Do you recognize Eric Chaney sitting  
4 in the Coffee County elections office on  
5 January 7th, 2021, while Maggio's team copied the  
6 Coffee County election equipment?

7 He's the one in the baseball cap.

8 MR. DENTON: Object to form.

9 THE WITNESS: I don't know Eric  
10 Chaney.

11 MS. PORTER: Okay. Let's move on to  
12 Tab 10, which will be Exhibit Number 6.

13 (Johnston Deposition Exhibit Number 6  
14 marked for identification.)

15 MR. SPARKS: I am now handing the  
16 witness and her counsel what's been predesignated  
17 as Tab 10 and now being marked as Exhibit 6.

18 BY MS. PORTER:

19 Q Have you seen this document before?

20 A I do not recognize this document.

21 Q Were you aware that in early 2021,  
22 SullivanStrickler uploaded to the internet hundreds



1 of gigabytes of data copied from Coffee County's  
2 election equipment?

3 MR. DENTON: Object to form.

4 BY MS. PORTER:

5 Q Dr. Johnston, were you aware that  
6 SullivanStrickler uploaded to the internet data  
7 copied from Coffee County's election system?

8 MR. DENTON: Same objection.

9 THE WITNESS: I don't know what  
10 SullivanStrickler did.

11 BY MS. PORTER:

12 Q This document in front of you is also  
13 produced by Mr. Maggio. If you look at it, you'll  
14 see a list of who had access to the Coffee County  
15 election software via the internet.

16 Were you aware that many different  
17 people downloaded those sensitive files and have  
18 analyzed it?

19 MR. DENTON: Object to form.

20 THE WITNESS: No, I am not aware.

21 MS. PORTER: I'm moving on to Tab 14,  
22 which will be Exhibit Number 7.

1 (Johnston Deposition Exhibit Number 7  
2 marked for identification.)

3 MR. SPARKS: I am now handing the  
4 witness and her counsel what's been predesignated  
5 as Tab 14 and will be marked as Exhibit 7.

6 BY MS. PORTER:

7 Q Please turn to the second page, the  
8 paragraph numbered 9. Do you know who Benjamin  
9 Cotton is?

10 A I don't know Benjamin Cotton.

11 Q In the second page on paragraph 9,  
12 Mr. Cotton, who is a cybersecurity expert and has  
13 nothing to do with Georgia elections, testified in  
14 June of this year that he had previously  
15 forensically examined the Dominion Voting System in  
16 Coffee County.

17 Were you aware of Mr. Cotton's access  
18 to the Coffee County system?

19 MR. DENTON: Object to form.

20 THE WITNESS: What page are you on?

21 BY MS. PORTER:

22 Q It's page 2, paragraph 9.

1                   A       Oh.

2                   Q       And I will ask my question again.

3       Were you aware that Mr. Cotton, who has nothing to  
4       do with Georgia elections, had access to Coffee  
5       County's system?

6                   MR. DENTON: I maintain my objection.

7                   THE WITNESS: I'm not aware of what  
8       Mr. Coffee -- Mr. Cotton did.

9       BY MS. PORTER:

10                  Q       Did you have any concerns that  
11       Mr. Cotton had access to Coffee County's election  
12       data?

13                  A       I am concerned if anybody illegally  
14       has access to any of our election equipment.

15                  Q       And as a State Elections Board  
16       member, does it also concern you that the  
17       Plaintiffs in this case were the ones to uncover  
18       this information --

19                  MR. DENTON: Object to form.

20       BY MS. PORTER:

21                  Q       -- rather than in a State  
22       investigation?

1 MR. DENTON: Same objections.

2 THE WITNESS: I don't know who or  
3 what uncovered this information.

4 MS. PORTER: Okay. We are going to  
5 move on to Tab Number 16, which will be Exhibit 8.

6 (Johnston Deposition Exhibit Number 8  
7 marked for identification.)

8 MR. DENTON: While Adam is grabbing  
9 that, Dr. Johnston, it's fine for you to put the  
10 exhibit numbers on there since they aren't  
11 stickered here, but don't mark the exhibits beyond  
12 that.

13 THE WITNESS: Okay. Thank you.

14 MR. SPARKS: I am now handing the  
15 witness and her counsel what's been predesignated  
16 as Tab 16, now being marked as Exhibit 8.

17 BY MS. PORTER:

18 Q Have you seen these e-mails before?

19 A No.

20 Q Are you aware a Coffee County  
21 Election supervisor found Doug Logan's Cyber Ninjas  
22 business card attached to the computer of the

1 previous supervisor in the spring of 2021?

2 MR. DENTON: Object to form.

3 THE WITNESS: Ask your question  
4 again, please.

5 BY MS. PORTER:

6 Q Are you aware a Coffee County  
7 Election supervisor found Doug Logan's Cyber Ninjas  
8 business card attached to the computer of the  
9 previous supervisor in the spring of 2021?

10 MR. DENTON: I maintain my objection.

11 THE WITNESS: I do not know what the  
12 Coffee County supervisor found.

13 BY MS. PORTER:

14 Q Are you familiar with Doug Logan or  
15 his organization, Cyber Ninjas?

16 MR. DENTON: Object to form.

17 THE WITNESS: I do not know  
18 Mr. Logan.

19 BY MS. PORTER:

20 Q Have you heard anything in the press  
21 about Doug Logan or Cyber Ninjas?

22 MR. DENTON: Object to form.

1 THE WITNESS: I know of Cyber Ninjas  
2 and Mr. Logan from the press.

3 BY MS. PORTER:

4 Q Can you tell me what you know about  
5 them?

6 A I think they were involved in the  
7 Arizona audit.

8 Q Are you aware if they had any  
9 connection to Coffee County or the Georgia  
10 election?

11 A I --

12 MR. DENTON: Object to --

13 THE WITNESS: No.

14 MR. DENTON: Object to form. Sorry.

15 BY MS. PORTER:

16 Q Are you aware that Mr. Barnes  
17 notified Chris Harvey of potential Cyber Ninjas'  
18 involvement with the Coffee County voting equipment  
19 in May of 2021?

20 MR. DENTON: Object to form.

21 THE WITNESS: No.

22

1 BY MS. PORTER:

2 Q Do you see that Chris Harvey, the  
3 state election director at the time, directed  
4 Frances Watson, the head of the Secretary of  
5 State's investigative unit at the time, to  
6 investigate Cyber Ninjas' involvement with the  
7 Coffee County elections office in May of 2021?

8 A This is the first time that I've seen  
9 this e-mail.

10 Q And you see that now?

11 A I see this e-mail.

12 Q Do you see Chris Harvey directing  
13 Frances Watson to investigate Cyber Ninjas'  
14 involvement?

15 MR. DENTON: Object to form.

16 THE WITNESS: I see the e-mail.

17 BY MS. PORTER:

18 Q Do you know why that investigation  
19 never occurred?

20 MR. DENTON: Object to form.

21 THE WITNESS: No.

22 MS. PORTER: I'm going to introduce

1 Tab 47, which will be Exhibit 9.

2 (Johnston Deposition Exhibit Number 9  
3 marked for identification.)

4 MR. SPARKS: I'm now handing the  
5 witness and counsel what's been predesignated as  
6 Tab 47. And that will be marked as Exhibit 9.

7 BY MS. PORTER:

8 Q And in that -- what we are handing  
9 you is an excerpt from the deposition of James  
10 Barnes, who was on the e-mail with Chris Harvey  
11 that you just saw.

12 If could please turn to page 164, it  
13 should be the third page of the copy that you have  
14 in front of you.

15 A I'm sorry, what page?

16 Q It's labeled 164. It will be the  
17 third page of your copy. And I would direct your  
18 attention to Line 8, where in response to the  
19 question, "Did anyone ever follow up with you from  
20 the State on this issue?" Mr. Barnes says, "I  
21 never heard anything back from anybody at the  
22 State."



1 Do you know why no State investigator  
2 ever contacted James Barnes or ever visited Coffee  
3 County's elections office while he worked there?

4 MR. DENTON: Object to form.

5 THE WITNESS: No.

6 BY MS. PORTER:

7 Q Does it concern you that the  
8 investigation that Chris Harvey and Frances Watson  
9 initiated never occurred?

10 MR. DENTON: Object to form.

11 THE WITNESS: I don't know.

12 BY MS. PORTER:

13 Q Does it concern you that there are  
14 serious allegations of access to the Coffee County  
15 election system and the State never investigated  
16 them?

17 MR. DENTON: Object to form.

18 THE WITNESS: Would you repeat that,  
19 please?

20 BY MS. PORTER:

21 Q Does it concern you that there were  
22 serious allegations of access to Coffee County's

1 election system and that the State never  
2 investigated them?

3 MR. DENTON: I maintain my objection.

4 THE WITNESS: I'm concerned about all  
5 allegations, Ms. Porter.

6 BY MS. PORTER:

7 Q In the State Election Board's meeting  
8 yesterday, Judge Duffey, the new Chair, seemed to  
9 indicate that going forward, the State Election  
10 Board will be more actively involved in  
11 investigations conducted by the Secretary of State.

12 Is that your understanding as well?

13 MR. DENTON: Objection to the form.

14 You may answer.

15 THE WITNESS: I'm pleased to have  
16 Judge Duffey on the election board.

17 BY MS. PORTER:

18 Q And do you agree with his assessment,  
19 that the State Election Board should take a more  
20 active role in investigations?

21 MR. DENTON: Object to form.

22 THE WITNESS: The State Election

1 Board has the authority to conduct investigations.

2 BY MS. PORTER:

3 Q And do you believe that they should  
4 take a more active role in that?

5 A I believe the State Election Board  
6 does take an active role in investigations.

7 Q Have you ever received any  
8 information about events related to the  
9 investigation of Coffee County election officials  
10 from employees of the Secretary of State's office?

11 A Repeat that.

12 Q Have you ever received any  
13 information about events related to the Coffee  
14 County investigation from employees of the  
15 Secretary of State's office?

16 A I don't have an answer for that.

17 Q Have you received information from  
18 Secretary of State office employees about the  
19 Coffee County investigation?

20 A No.

21 Q What about from Chairman Duffey?

22 A The only information that I have is

1           that there is an investigation into the Coffee  
2           County issue now.

3                   Q       Have you asked for more information  
4           about this investigation?

5                   A       Have I asked about more information?

6                   Q       Yes.

7                   A       I am willing to receive information  
8           as it is appropriate to be given to us as a State  
9           Election Board.

10                  Q       But you have not sought out more  
11           information?

12                  A       What do you mean?

13                  Q       Have you asked for more information  
14           from the Secretary of State's office or other  
15           people involved in the investigation?

16                  A       No.

17                           THE WITNESS: I am going to move to  
18           Tab 29, which will be Exhibit 10.

19                           MR. SPARKS: I am now handing the  
20           witness and her counsel what's been predesignated  
21           as Tab 29, now being marked as Exhibit 10.

22

1 (Johnston Deposition Exhibit Number 10  
2 marked for identification.)

3 BY MS. PORTER:

4 Q Do you recognize this petition?

5 MR. DENTON: Object to form.

6 THE WITNESS: Yes.

7 BY MS. PORTER:

8 Q Did you find it concerning that  
9 political leaders, including office holders and  
10 candidates, do not have faith in Georgia's current  
11 voting equipment?

12 MR. DENTON: Object to form.

13 THE WITNESS: That sounds like your  
14 opinion, Ms. Porter.

15 BY MS. PORTER:

16 Q Do you agree that the extensive  
17 breach of the Georgia voting system in Coffee  
18 County raises important concerns about the security  
19 of that system?

20 MR. DENTON: Object to form.

21 THE WITNESS: As I've said before,  
22 I'm concerned about any voting system in Georgia.

1 BY MS. PORTER:

2 Q I will direct your attention on this  
3 petition to the final paragraph that begins with  
4 "Georgia voters'." It says, "Georgia voters'  
5 confidence continues to deteriorate in the face of  
6 ongoing election problems caused by this complex  
7 system."

8 Do you find it concerning that  
9 political leaders', including office holders and  
10 candidates, confidence in Georgia's system  
11 continues to deteriorate?

12 MR. DENTON: Object to form.

13 THE WITNESS: I believe this e-mail  
14 is from one person. How can you extrapolate to so  
15 many people?

16 BY MS. PORTER:

17 Q This e-mail is signed from multiple  
18 people. The signature on the second page says it's  
19 from Jeanne Dufort, Ryan Graham, and Salleigh  
20 Grubbs, who are all leaders of political parties in  
21 Georgia.

22 Do you find it concerning that

1 political leaders, including office holders and  
2 candidates, do not have faith in the current  
3 Georgia election system?

4 MR. DENTON: I maintain my same  
5 objection to the same question.

6 You may answer.

7 THE WITNESS: I don't see your  
8 connection to leaders and other people.

9 BY MS. PORTER:

10 Q I'm looking at the signature and I'm  
11 seeing, "Jeanne Dufort, Morgan County Democratic  
12 Committee, Ryan Graham, Chair, Libertarian Party of  
13 Georgia, and Salleigh Grubbs, Chair of Cobb County  
14 Republican Party."

15 A Oh, okay.

16 MR. DENTON: Ms. Porter, I'll just  
17 say since we're all -- you're virtual, we're here,  
18 you referred to this as the final paragraph when  
19 you directed her attention. So I think we  
20 didn't -- the witness may not have seen the second  
21 page with the signatures that you are referencing  
22 now.

1 MS. PORTER: Thank you.

2 THE WITNESS: All right. Ms. Porter,  
3 I -- I see these names, and I see that they've  
4 signed their names to this opinion in this e-mail.

5 BY MS. PORTER:

6 Q And do you find it concerning that  
7 such political leaders have deteriorating faith in  
8 Georgia's election system?

9 MR. DENTON: Object to form.

10 THE WITNESS: I find that electors  
11 and people in Georgia frequently express their  
12 concerns and opinions.

13 BY MS. PORTER:

14 Q Given the broad range of serious  
15 documented vulnerabilities and the extraordinary  
16 Coffee County breach, do you have any concerns  
17 about the security of Georgia's Dominion Election  
18 System?

19 MR. DENTON: Object to form.

20 THE WITNESS: As I've said before,  
21 I'm concerned about any voting system in Georgia  
22 and anything in Georgia that has to do -- that may



1           affect election integrity.

2           BY MS. PORTER:

3                   Q       I'm going to ask you about some  
4           specifics.

5                           Do you think that a system with  
6           numerous serious vulnerabilities that has suffered  
7           an expansive breach is a reliable election system?

8                   MR. DENTON:   Object to form.

9                           THE WITNESS:   Ms. Porter, that sounds  
10          like your opinion.

11          BY MS. PORTER:

12                   Q       I'm asking for your opinion.

13                   A       You're asking for my opinion?

14                   Q       Yes.

15                           Do you think that a system with  
16          numerous vulnerabilities and an expansive breach is  
17          a reliable election system?

18                   MR. DENTON:   The same objection to  
19          the same question.

20                           THE WITNESS:   My opinion, as a member  
21          of the State Election Board, is to work within the  
22          framework of the Election Code and look at

1 everything through the lens of election integrity,  
2 no matter what the system is.

3 BY MS. PORTER:

4 Q What I'm asking is if you personally  
5 believe that a system with numerous documented  
6 vulnerabilities that has suffered a breach is a  
7 reliable election system.

8 MR. DENTON: The same objection to  
9 the same question.

10 THE WITNESS: My opinion is that  
11 there are vulnerabilities with any election system.

12 BY MS. PORTER:

13 Q Okay. Do you think that an election  
14 system is reliable if that software has been  
15 accessible on the internet for a year and a half?

16 MR. DENTON: Object to form.

17 THE WITNESS: That is a question for  
18 computer experts.

19 BY MS. PORTER:

20 Q You have no opinion on it?

21 MR. DENTON: Object to form.

22 THE WITNESS: I have not seen

1 evidence -- substantive evidence that the Georgia  
2 election system has compromised -- has been  
3 compromised.

4 BY MS. PORTER:

5 Q I'm not asking you about Georgia's  
6 election system. I'm saying an election system  
7 that has been on the internet for over a year and a  
8 half, would you think that's reliable --

9 MR. DENTON: Object to form.

10 BY MS. PORTER:

11 Q -- from a cybersecurity perspective?

12 MR. DENTON: Same objection.

13 THE WITNESS: There are always issues  
14 and concerns about cybersecurity. That's a given  
15 in the world today.

16 BY MS. PORTER:

17 Q Are you aware that the State Election  
18 Board has the power to mandate emergency  
19 hand-marked paper ballots for future elections?

20 MR. DENTON: Object to form.

21 THE WITNESS: No, I'm not aware of  
22 that.

1 BY MS. PORTER:

2 Q Is this something the State Election  
3 Board is looking into?

4 A No.

5 Q Why not?

6 A There are ten duties in the Code of  
7 Elections in Georgia prescribed to the State  
8 Election Board. None of those ten duties give the  
9 authority of the State Election Board to choose the  
10 voting system.

11 Q In light of the circumstances that  
12 we've discussed today, do you think that the State  
13 Election Board should consider hand-marked paper  
14 ballots?

15 MR. DENTON: Object to form.

16 THE WITNESS: As a State Election  
17 Board member, it doesn't matter what my opinion is.  
18 It's what the Georgia Election Code states.

19 BY MS. PORTER:

20 Q Is it your testimony that as a State  
21 Election Board member your opinion as to the form  
22 of Georgia's voting system is not important?

1 MR. DENTON: Object to form.

2 THE WITNESS: My duty is to work  
3 within the framework of the Georgia Election Code.

4 BY MS. PORTER:

5 Q And did you say that the Georgia  
6 Election Code does not allow the State Election  
7 Board to mandate hand-marked paper ballots?

8 MR. DENTON: Object to form.

9 THE WITNESS: It's very clear in the  
10 Code that the voting system used in Georgia shall  
11 be uniform as determined by the State.

12 BY MS. PORTER:

13 Q So it is your testimony that the  
14 State Election Board cannot mandate hand-marked  
15 paper ballots?

16 MR. DENTON: Object to form.

17 THE WITNESS: That is a question for  
18 the State.

19 BY MS. PORTER:

20 Q Not a question for a member of the  
21 State Election Board?

22 MR. DENTON: I'm not sure if there's

1 a question there, but I will object if there is.

2 BY MS. PORTER:

3 Q As a member of the State Election  
4 Board, is it your belief that you do not have the  
5 authority to mandate hand-marked paper ballots?

6 MR. DENTON: Same objection to the  
7 same question.

8 THE WITNESS: I referred to the  
9 duties of the State Election Board before, and my  
10 answer is the same.

11 BY MS. PORTER:

12 Q I'm asking if it is your testimony  
13 that it is prohibited for the State Election Board  
14 to mandate hand-marked paper ballots.

15 MR. DENTON: Same objection.

16 THE WITNESS: The authority for --  
17 for using a voting system and providing a voting  
18 system falls within the authority of the State, not  
19 the State Election Board.

20 MS. PORTER: Okay. I'm going to ask  
21 that we take a quick break.

22 VIDEOGRAPHER: Going off the video

1 record at 10:50 a.m.

2 (Recess from 10:50 a.m. to 11:04 a.m.)

3 VIDEOGRAPHER: Back on the record at  
4 11:04 a.m.

5 MS. PORTER: I have no further  
6 questions, and I'm going to pass the time to  
7 Mr. Brown.

8 EXAMINATION BY COUNSEL FOR COALITION PLAINTIFFS  
9 BY MR. BROWN:

10 Q Dr. Johnston, my name is Bruce Brown,  
11 and I represent the Coalition Plaintiffs. And I'm  
12 going to follow up on some of the questions that  
13 Ms. Porter asked you this morning.

14 And one thing that I appreciate about  
15 your testimony is your testimony in response to one  
16 of the last questions, that you view your  
17 responsibilities within the framework of state law.

18 And so what I wanted to do was to  
19 address state law with respect to several different  
20 topics; secret ballots, audits, investigations, and  
21 secure elections, to get your information and  
22 testimony on what the State Election Board is doing

1 to fulfill its duties.

2 As to secret ballots, Dr. Johnston,  
3 you're -- you're aware that the Georgia  
4 constitution and Georgia State law require that  
5 citizens be allowed to vote in absolute secrecy,  
6 right?

7 A Right.

8 Q You're -- you've seen the  
9 touchscreens and how big they are, correct?

10 A Correct.

11 Q Does the size of the touchscreens,  
12 particularly in small voting places, give you any  
13 concerns about whether the State is protecting the  
14 right of citizens to vote in absolute privacy?

15 A The -- the screens are large and the  
16 counties are instructed to do -- to make  
17 adjustments to provide for secrecy for the voter.

18 Q Has the State Election Board done  
19 anything to assess whether the counties are, in  
20 fact, doing that; that is protecting the absolute  
21 secrecy of voters using the BMD systems?

22 A The counties have been instructed to



1           make adjustments in the polling precincts to  
2           provide for ballot secrecy.

3                   Q       Apart from replacing the  
4           ballot-marking devices with hand-marked paper  
5           ballots, do you know of anything more that the  
6           counties can or should do to protect the absolute  
7           right of citizens to ballot secrecy?

8                   MR. DENTON:   Object to form.

9                   THE WITNESS:   I'm not sure I  
10          understand your question.

11         BY MR. BROWN:

12                   Q       I'll repeat it.

13                   Apart from replacing BMDs with  
14           hand-marked paper ballots, do you know of anything  
15           else that the counties can do to protect the right  
16           of Georgia citizens to absolute ballot secrecy?

17                   MR. DENTON:   Object to form.

18                   THE WITNESS:   The BMDs can be  
19           positioned and placed so that this -- the ballot  
20           secrecy can be maintained in polling precincts.

21         BY MR. BROWN:

22                   Q       And is it your testimony that the

1           counties are, in fact, doing that or do you know  
2           one way or the other?

3                   A       They should be doing that.

4                   Q       And does the SEB have any role in  
5           investigating whether, in fact, they are doing that  
6           in your view?

7                   A       The SEB will respond to complaints  
8           regarding ballot-secrecy issues.

9                   Q       And has it responded to complaints  
10          regarding ballot-secrecy issues in fact?

11                  A       I believe the counties have received  
12          communications from the election division of the  
13          Secretary of State giving them instruction on how  
14          to arrange the polling precinct and the BMDs so  
15          that the ballot secrecy to the voter can be  
16          maintained.

17                  Q       You would agree that the State  
18          Election Board is authorized to promulgate rules  
19          about precertification audits, right?

20                  A       Yes.

21                  Q       You testified persuasively that you  
22          had many concerns, and always will have concerns,

1           about the security of elections in Georgia.

2                       Have any of those concerns led you,  
3           as an SEB board member, to reconsider the audit  
4           rules that are currently in place to make them more  
5           robust?

6                       MR. DENTON: Object to form.

7                       THE WITNESS: Ask your question  
8           again, please.

9           BY MR. BROWN:

10                    Q       Has your concerns led you to  
11           recommend or consider that the SEB change the audit  
12           rules to make them more robust in light of, if you  
13           believe them -- to have -- to address your  
14           concerns?

15                    MR. DENTON: Object to form.

16                    THE WITNESS: The rule -- the rule --  
17           the Georgia Election Code describes the audit  
18           procedure for precertification audit. As a State  
19           Election Board member, and interest in election  
20           integrity, but working within the framework of the  
21           law, it is appropriate to understand the process of  
22           the audit. And -- and from time to time, the Board

1           may make recommendations to the General Assembly  
2           with regards to elections and election integrity  
3           and audits. So I'm not sure if that answered your  
4           question.

5           BY MR. BROWN:

6                   Q           It does in part.

7                               But the -- you do understand that the  
8           SEB has the jurisdiction and the authority to  
9           promulgate rules about audits without the  
10          legislature, correct?

11                   MR. DENTON: Object to form.

12                               THE WITNESS: The State Election  
13          Board has the authority to promulgate rules and  
14          regulations within the framework of the Georgia  
15          Election Code.

16           BY MR. BROWN:

17                   Q           Right.

18                               One of the -- the way that -- the  
19          purpose of this deposition, of course, is for this  
20          litigation. And I hope you can understand that the  
21          Plaintiffs' position is that the -- I'm not asking  
22          you to agree to this. I'm just setting up my next

1 question. The Plaintiffs' position is that the  
2 BMDs, particularly already, but particularly given  
3 the more recent threats and breaches, are too  
4 insecure to use in Georgia elections, and that the  
5 current audit procedure, even without these  
6 advanced threats, is inadequate.

7 And in response to that, we  
8 anticipate that the State may take the position,  
9 "Oh, the SEB is on that. Don't worry about it,  
10 Judge, they're going to make changes to the audits  
11 to respond to this increased threat."

12 I just want to know if that's the  
13 case or not. And if you're not -- if there's  
14 nothing in the works, then there's nothing in the  
15 works.

16 MR. DENTON: Objection to the form.

17 THE WITNESS: That was so long. I'm  
18 sorry, I lost track of your real question.

19 BY MR. BROWN:

20 Q It was a real -- I didn't mean -- it  
21 was long, but I don't think it was that hard, but  
22 let me ask it more crisply perhaps.

1                   Isn't it true that the SEB is not  
2                   doing anything with respect to the regulation of  
3                   audits to address the concerns reflected in the  
4                   CISA report, Dr. Halderman's report, the news from  
5                   Coffee County?

6                   MR. DENTON: Object to form.

7                   THE WITNESS: I -- I cannot speak  
8                   with regard to Coffee County.

9                   MR. BROWN: Okay. That's  
10                  interesting. That's not responsive.

11                  Can you repeat the question,  
12                  Ms. Court Reporter?

13                  (The reporter read as requested.)

14                  THE WITNESS: The State Election  
15                  Board is not reacting to the -- to the issue with  
16                  Coffee County at this time.

17                  BY MR. BROWN:

18                  Q       Is it reacting with respect to the  
19                  audits -- to the increased risk reflected by either  
20                  the CISA advisory or Dr. Halderman's report?

21                  A       Mr. Brown, if the State Election  
22                  Board was compelled to respond to every bit of

1 advice or allegation, we would be overwhelmed with  
2 trying to make a kagillion changes.

3 Q Fair enough.

4 And so part of the job of the SEB is  
5 to separate serious threats that the SEB needs to  
6 take action on and trivial, or not material,  
7 complaints that it does not, correct?

8 A The SEB is charged with working  
9 within the framework of the Georgia Election Code  
10 and maintaining election integrity.

11 Q So I take it that your answer is no,  
12 the Secretary of State -- I mean, I'm sorry, the  
13 State Election Board is not doing anything  
14 specifically to address the increased risk  
15 occasioned by either the Coffee County breach,  
16 Dr. Halderman -- or reflected in the Halderman  
17 report or in the CISA advisory, correct?

18 MR. DENTON: Object to form.

19 THE WITNESS: Mr. Brown, I have not  
20 seen the evidence about Coffee County yet. How can  
21 I react if I have not seen substantive evidence?

22

1 BY MR. BROWN:

2 Q What evidence would it take you to  
3 see for you to recommend that the SEB take decisive  
4 action to protect the security of Georgia's  
5 election system?

6 MR. DENTON: Object to form.

7 THE WITNESS: The State Election  
8 Board takes every possible action to maintain  
9 election integrity.

10 BY MR. BROWN:

11 Q Name one.

12 A The State Election Board investigates  
13 complaints and refers those complaints to the  
14 Attorney General's Office for further investigation  
15 and reports the violation of Georgia Election Code.

16 Q Apart from referring complaints to  
17 the Attorney General, name every possible action  
18 the State Election Board has taken this year or  
19 anticipates taking this year to protect the  
20 security of Georgia's election system in light of  
21 the evidence or suggestions of increased  
22 vulnerabilities.



1 MR. DENTON: Object to form.

2 THE WITNESS: I don't think it is  
3 appropriate to take action based on suggestions.

4 BY MR. BROWN:

5 Q That's why I started this line of  
6 questioning with "What evidence do you want? What  
7 do you need to see?"

8 A There's an investigation that is  
9 ongoing now.

10 Q If -- if you had the perpetrator  
11 admit to you, credibly, that the Coffee County  
12 election system was copied and put on the internet  
13 so that multiple people could have access to it  
14 14 months ago, would that be enough, if you  
15 believed it, to cause the SEB to take some action  
16 to protect the security of Georgia's election  
17 system?

18 MR. DENTON: Object to form.

19 THE WITNESS: That sounds like  
20 speculation to me, if -- if and if I believe.

21 BY MR. BROWN:

22 Q So I take it we cannot rely upon you

1 if you did hear that evidence, to take action,  
2 correct?

3 MR. DENTON: Object to form.

4 THE WITNESS: Are you asking if I --  
5 if I hear something, I should take action?

6 BY MR. BROWN:

7 Q No. I want to know what it would  
8 take for you to take action.

9 A You'll have to explain that further.

10 Q Well, in court your lawyers are going  
11 to say to the Judge, "Don't worry, if something bad  
12 happens, we will take action." Should we just say,  
13 "No, that's speculation because they're not telling  
14 us when or if they will ever take any action to  
15 protect Georgia's voters"?

16 MR. DENTON: Object to form.

17 THE WITNESS: That sounds like a  
18 legal question, a question for the lawyers and not  
19 for me, a member of the State Election Board.

20 BY MR. BROWN:

21 Q It's really not that hard.

22 If you were -- if you were, for

1           example, in charge of bridges in Georgia, and the  
2           security of bridges, and somebody asked you, "What  
3           would it take for you to close that bridge down?"  
4           You would say, "Well, if I got a report from  
5           somebody that said it's unsafe, I would close it  
6           down."

7                       But you're not willing to make that  
8           statement with respect to protecting people's right  
9           to vote and to have their vote counted accurately,  
10          are you?

11                       MR. DENTON: Object to form.

12                       THE WITNESS: Mr. Brown, if you would  
13          show me that a Georgia election, by real evidence,  
14          has been altered votes -- or election outcomes have  
15          been altered, I would appreciate it.

16          BY MR. BROWN:

17                       Q       Okay. You understand that I -- that  
18          has nothing to do with my question or my line of  
19          inquiry? It's clever, but it has nothing to do  
20          with my question.

21                       We're talking about future elections.  
22          Are you with me?

1                   A       Well, you -- you be with me.  You're  
2       being clever, too.

3                   Q       I'm talking about future elections.

4                             Are you saying that to protect future  
5       elections, you will do nothing unless you are  
6       seeing evidence that a past election has been  
7       disturbed?  Is that right?

8                             MR. DENTON:  Objection to form.

9       BY MR. BROWN:

10                  Q       Is that what it will take?

11                             MR. DENTON:  Same objection.

12                             THE WITNESS:  Repeat your question.

13       BY MR. BROWN:

14                  Q       Are you saying that you're not going  
15       to do anything to protect future elections unless  
16       you have been given proof that a past election has  
17       been the subject of some sort of fraud?

18                             MR. DENTON:  Object to form.

19                             THE WITNESS:  As a member of the  
20       State Election Board, I'm interested in the process  
21       of elections and the adherence to the process of  
22       elections.  And we learn from the past to inform us

1 of what decisions or actions should be taken in the  
2 future.

3 BY MR. BROWN:

4 Q I know. And it's a --

5 A I don't think it's appropriate to act  
6 on speculation.

7 Q I agree. I understand that. And I  
8 do understand your testimony that there -- you  
9 haven't been shown any evidence that -- of a prior  
10 act. I get that.

11 But you understand -- but what I'm  
12 talking about is what the SEB is doing to protect  
13 Georgians in future elections. And you would agree  
14 with me that there -- there could be some threats  
15 that would be so severe to the integrity of the  
16 election system, to the BMDs, that you would call  
17 for them to be replaced, for example, with  
18 hand-marked paper ballots, right?

19 MR. DENTON: Object to form.

20 THE WITNESS: Your question seems to  
21 be editorializing a speculation about threats and  
22 severity. I -- I want to see evidence, concrete

1 evidence, that the BMD or the voting system has  
2 been -- has altered Georgia elections or Georgia  
3 outcome of elections.

4 BY MR. BROWN:

5 Q And absent that, you're not prepared  
6 to take any action to protect elections in the  
7 future, even if the likelihood of future breaches  
8 is of concern?

9 MR. DENTON: Object to form.

10 THE WITNESS: I'm always concerned  
11 with a breach of any process or any part of  
12 elections, whether it's the machines or the paper  
13 ballots or the voter rolls or any other aspect of  
14 the elections.

15 BY MR. BROWN:

16 Q I'm with you.

17 So to get back to the metaphor of the  
18 bridge. Unless that bridge has already fallen down  
19 and killed people, you're not going to order it  
20 closed for future passengers to go by, correct?

21 MR. DENTON: Object to form.

22 THE WITNESS: You have not, or

1 anything that I have seen to date, given me a  
2 compelling reason to have that opinion that you're  
3 asking me to agree to.

4 BY MR. BROWN:

5 Q Let's get to the compelling evidence.  
6 And with that transition, I'm going to go to the  
7 authority and duty of the State Election Board to  
8 investigate.

9 And you're aware that it is the duty  
10 of the State Election Board to investigate or  
11 authorize the Secretary of State to investigate,  
12 correct?

13 A Correct.

14 Q And you -- you don't know how the  
15 investigation of Coffee County was initiated,  
16 correct?

17 A I do not know.

18 Q And for all you know, and for all I  
19 know, the SEB did not authorize the Secretary of  
20 State to conduct that investigation, correct?

21 MR. DENTON: Object to form.

22 THE WITNESS: I do not know.

1 BY MR. BROWN:

2 Q And did you know that to date, or  
3 maybe as of about a week ago, neither the Secretary  
4 of State, the GBI or the FBI has contacted any,  
5 any, of the witnesses or people involved in the  
6 Coffee County breach? Did you know that?

7 MR. DENTON: Object to form.

8 THE WITNESS: I do not know the  
9 details of the investigation.

10 BY MR. BROWN:

11 Q Do you know at a high level, have  
12 they talked to anybody?

13 A I do -- I do not have that  
14 information.

15 Q They haven't talked to anybody, have  
16 they, Dr. Johnston?

17 MR. DENTON: Object to form.

18 THE WITNESS: I do not have that  
19 information.

20 BY MR. BROWN:

21 Q They haven't talked to Misty Hampton.  
22 They haven't talked to Jil Ridlehoover. They



1           haven't talked to Eric Chaney. They haven't talked  
2           to Scott Hall. They haven't talked to Paul Maggio.

3                       They haven't talked to any of those  
4           people, have they?

5                       MR. DENTON: Object to form.

6                       THE WITNESS: I don't know.

7           BY MR. BROWN:

8                       Q       Would it concern you, given how  
9           concerned you are, about the security of the  
10          elections in -- don't -- I shouldn't -- let me back  
11          up.

12                      What puzzles me is that I believe you  
13          that you are concerned, but it doesn't look like  
14          the Secretary of State is, because the Secretary of  
15          State has not interviewed any of these people at  
16          all. And apparently, you did not know that he had  
17          not done so, correct?

18                      A       I do not know.

19                      MR. DENTON: Object to form.

20                      I'm sorry. Say again.

21                      THE WITNESS: I do not know.

22

1 BY MR. BROWN:

2 Q Does it concern you whether or not  
3 anybody from the State has ever talked to the  
4 people involved once?

5 MR. DENTON: Object to form.

6 THE WITNESS: I do not know the  
7 details of the investigation, Mr. Brown.

8 BY MR. BROWN:

9 Q But you would agree that it is the  
10 duty of the State Election Board under the  
11 framework of state law to investigate, correct?

12 A It is one of the duties of the State  
13 Election Board to investigate.

14 Q And you would agree with me that an  
15 investigation that does not involve contacting any  
16 of the citizens involved is not a genuine  
17 investigation? You would agree with me, right?

18 MR. DENTON: Object to form.

19 THE WITNESS: I'm not the  
20 investigator, Mr. Brown.

21 BY MR. BROWN:

22 Q I know, but you are the boss of the

1 investigator. Isn't it your duty to make sure that  
2 the investigator is doing their job?

3 MR. DENTON: Object to form.

4 THE WITNESS: This is an ongoing  
5 investigation, and I do not have all of the details  
6 available.

7 BY MR. BROWN:

8 Q It's ongoing, meaning something has  
9 been investigated and it hasn't completed. Fair to  
10 say?

11 A All I can say is that it's an ongoing  
12 investigation.

13 Q Right.

14 And what has been -- ongoing, meaning  
15 it started, right? Or you don't know if it has  
16 started or not?

17 MR. DENTON: Object to form.

18 THE WITNESS: I believe it has  
19 started.

20 BY MR. BROWN:

21 Q Okay. What have they done to start  
22 it besides sharpen their pencils?

1                   A       You'll need to ask the people that  
2       are investigating.

3                   Q       You have not, I take it?

4                   A       I am not an investigator.

5                   Q       I didn't ask that.

6                             You have not asked them what they  
7       have done besides sharpen their pencils?

8                             MR. DENTON: Object to form.

9       BY MR. BROWN:

10                  Q       You have not asked them what they've  
11       done, correct?

12                             MR. DENTON: Object to form.

13       BY MR. BROWN:

14                  Q       Dr. Johnston, this may change, and I  
15       hope it changes, but as of this moment, isn't it  
16       fair to say that the State Election Board has done  
17       nothing to oversee the Secretary of State in its  
18       investigation of the Coffee County breach?

19                             MR. DENTON: Object to form.

20                             THE WITNESS: Mr. Brown, all I know  
21       is that there is an investigation that is ongoing.

22

1 BY MR. BROWN:

2 Q Now, the investigation --

3 MR. DENTON: Sorry, Bruce, I don't --  
4 I don't mean to interrupt you, but I've got you  
5 about six minutes over your time. Are we at a  
6 stopping point?

7 MR. BROWN: Let me ask a couple more  
8 questions on this line of inquiry.

9 MR. DENTON: Okay.

10 BY MR. BROWN:

11 Q Well, I'm going to change subjects,  
12 but I'll ask it very quickly.

13 You testified that it's your  
14 understanding of the authority of the State  
15 Election Board that it doesn't have the authority  
16 to mandate that counties switch from hand-marked  
17 paper ballots -- switch to hand-marked paper  
18 ballots from BMDs, correct?

19 MR. DENTON: Object to form.

20 THE WITNESS: The use of the voting  
21 system in Georgia is clearly in the authority of  
22 the State.

1 BY MR. BROWN:

2 Q Do you mean -- I don't mean to  
3 quibble, but do you mean the Governor or the SEB or  
4 the Secretary of State?

5 MR. DENTON: Object to form.

6 THE WITNESS: Georgia Election Code  
7 states that the uniformity and provision of the  
8 voting system in Georgia is given to the State.

9 BY MR. BROWN:

10 Q Now, the local counties have the  
11 authority in emergencies to use hand-marked paper  
12 ballots instead of the BMDs, correct?

13 A Correct.

14 Q And the SEB would have the authority  
15 to promulgate rules that would either require or  
16 recommend that they do so, correct?

17 MR. DENTON: Object to form.

18 THE WITNESS: That does not fall  
19 within the authority of the State Election Board.

20 BY MR. BROWN:

21 Q 21-2-31-2 says that, "It shall be the  
22 duty of the State Election Board to formulate,

1 adopt, and promulgate such rules for the orderly  
2 conduct of primaries and elections."

3 Are you aware of that?

4 A I am aware of that.

5 Q And that would include recommending  
6 in emergencies local election boards to use  
7 hand-marked paper ballots instead BMDs, correct?

8 MR. DENTON: Object to form.

9 THE WITNESS: I think you're making  
10 an assumption as to that authority.

11 BY MR. BROWN:

12 Q You -- you're not comfortable with  
13 agreeing with that statement?

14 I'm not -- I'm not going to fight you  
15 on it. I'm just -- I do want to get your --  
16 your -- your understanding of the Board's authority  
17 on that.

18 A Well, define an emergency.

19 Q Well, if the BMDs are vulnerable  
20 beyond an acceptable point because their software  
21 has been on the internet for 14 months.

22 A So you're saying, in your opinion,

1           there's a vulnerability --

2                   Q       No. I --

3                   A       -- that provides no evidence that we  
4           should -- that the State Election Board should  
5           declare an emergency? I don't think so.

6                   Q       That's -- that's a fair response.

7                           If there were sufficient, to your  
8           mind, evidence that the BMDs were -- secure the  
9           BMDs were compromised, then the SEB would have the  
10          authority to recommend to the local counties to use  
11          hand-marked paper ballots, correct?

12                           MR. DENTON: Object to form.

13                           THE WITNESS: You'll have to be more  
14          specific about "compromised."

15          BY MR. BROWN:

16                   Q       Compromised to the point that you  
17          could not trust their -- their integrity.

18                           MR. DENTON: I'm not sure if there's  
19          a question, but I'll object to the form.

20                           MR. BROWN: She asked me to define my  
21          terms and I did so.

22



1 BY MR. BROWN:

2 Q And I'm not talking about  
3 Dr. Halderman's concern or Dr. Starks. I'm talking  
4 about your concern that you've expressed. And that  
5 if you were concerned about the vulnerability such  
6 that the integrity of the elections were at risk,  
7 according to you, not to anybody else, you would  
8 agree that you had the -- that the Board had the  
9 authority to at least recommend, if not mandate,  
10 local counties to use hand-marked paper ballots  
11 instead of BMDs, correct?

12 MR. DENTON: Object to form.

13 THE WITNESS: Mr. Brown, as I have  
14 stated before, I have concerns about all aspects of  
15 elections and election integrity. And my concern  
16 does not constitute an emergency. It would not be  
17 appropriate to declare or demand or recommend the  
18 change that you're suggesting.

19 BY MR. BROWN:

20 Q Okay. Let me make it more simple.  
21 But if you decided there were an emergency -- in  
22 your view, not in my view, but in your view, that

1           there was an emergency, jurisdictionally, the State  
2           Election Board would have the authority to  
3           promulgate rules or at least recommend to the local  
4           counties that they switch from BMDs to hand-marked  
5           paper ballots, correct?

6                     MR. DENTON: Object to form.

7                     THE WITNESS: Like I just said,  
8           concern is not an emergency.

9                     MR. BROWN: Okay. I think my answer  
10          and -- my question and your answer are sufficient  
11          that you're not going to answer my question, but  
12          I'll leave it at that since my time is up. We  
13          reserve the right to have adequate time to  
14          investigate this witness. Thank you.

15                    MR. SPARKS: Before we go off the  
16          record, Counsel, I can see that the witness has  
17          made some notes during her deposition and possibly  
18          a couple of markings on the exhibits, although I'm  
19          not sure of that. Will you provide us copies of  
20          those?

21                    MR. DENTON: We will. I believe her  
22          notes are just a list of who all was present today,

1 but we're happy to make a copy.

2 MR. SPARKS: Okay. That's fine. Do  
3 you mind if I just make a copy before you leave?

4 MR. DENTON: That would be fine. Let  
5 me look at it first.

6 MR. SPARKS: Yeah, of course.

7 MR. BROWN: Thank you, Dr. Johnston,  
8 for your time today. I appreciate it.

9 THE WITNESS: Thank you, Mr. Brown.  
10 Thank you.

11 MR. SPARKS: I'll make a copy and  
12 return those to you.

13 THE WITNESS: And I put numbers on  
14 these.

15 MR. SPARKS: That's fine. And you  
16 have the number of the exhibits?

17 MR. DENTON: Yes.

18 MR. SPARKS: So we'll leave those  
19 there. I've got copies if you want to look at them  
20 in the future.

21 MR. DENTON: Ms. Porter, did you have  
22 anything further?

1 We cannot hear you, you appear to  
2 be muted in some way.

3 MS. PORTER: I was thanking  
4 Dr. Johnston for her time today.

5 THE WITNESS: Thank you, Ms. Porter.

6 VIDEOGRAPHER: This is the end of the  
7 deposition. We are off the video record at  
8 11:40 a.m.

9 (Whereupon, at 11:40 a.m., the  
10 video-recorded deposition of JANICE W.  
11 JOHNSTON, M.D. was concluded; signature  
12 reserved.)  
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CERTIFICATE OF NOTARY PUBLIC

I, FELICIA A. NEWLAND, CSR, the officer before whom the foregoing video-taped deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me in stenotype and thereafter reduced to typewriting under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



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FELICIA A. NEWLAND, CSR  
Notary Public

My commission expires:  
September 15, 2024